

Message Text

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TO USMISSION GENEVA IMMEDIATE

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GENEVA FOR AMB. VANDEN HEUVEL FROM MAYNES

E.O. 11652: N/A

TAGS: UNGA, SHUM

SUBJECT: HUMAN RIGHTS ISSUES AT 33RD UNGA--SCOPE PAPER

REF: STATE 160486

1. AS PROMISED REFTEL, I AM SENDING AT THE END OF THIS MESSAGE A DRAFT SCOPE PAPER WHICH IS INTENDED TO LAY OUT OUR STRATEGY ON HUMAN RIGHTS ISSUES FOR THE 33RD UNGA. IT BUILDS UPON SOME SUGGESTIONS AND DISCUSSIONS WE HAVE HAD IN IO, INCLUDING INPUT FROM USUN. THIS IS NOT A FINAL DRAFT. IT NEEDS YOUR SCRUTINY FROM THE VANTAGE POINT OF GENEVA, AND WE WILL APPRECIATE GREATLY ALL COMMENTS YOU MAY CARE TO MAKE. I HAVE NOTED THAT THE PAPER OMITS AN ACTION PROPOSAL COVERING THE FIELD OF LIMITED OFFICIAL USE
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ECONOMIC AND SOCIAL RIGHTS AND WE ARE WORKING ON AN AMENDMENT TO HIGHLIGHT A KEY BASIC HUMAN RIGHT IN THIS CATEGORY, SUCH AS THE RIGHT TO FOOD.

2. FOR USUN: THE DRAFT REFLECTS THE VALUABLE CONTRIBUTIONS WHICH WE HAVE HAD FROM USUN. ANY ADDITIONAL COMMENTS OR SUGGESTIONS WILL BE WELCOME.

3. SINCE WE WANT TO COME UP WITH A FINAL VERSION IN IO AS SOON AS POSSIBLE, HOPE TO HAVE ALL COMMENTS BY THE END

OF THIS WEEK FROM GENEVA AND USUN.

4. SCOPE PAPER - HUMAN RIGHTS ISSUES - 33RD UNGA (1978)

THE SETTING

THE PRELIMINARY LIST OF ITEMS TO BE INCLUDED IN THE PROVISIONAL AGENDA OF THE 33RD UN GENERAL ASSEMBLY CONTAINS A STANDARD NUMBER OF HUMAN RIGHTS ITEMS (14, WITH A NUMBER OF SUB-ITEMS). MANY OF THE ITEMS ARE REPETITIVE, HAVING APPEARED ON THE AGENDAS OF THE PAST SEVERAL UNGA SESSIONS.

THE TOTALITY OF THE ITEMS WILL REFLECT SOMEWHAT MORE HEAVILY THAN USUAL THE THEME OF RACIAL DISCRIMINATION, WITH A MAJOR FOCUS BEING THE REPORT ON THE WORLD CONFERENCE TO COMBAT RACISM AND RACIAL DISCRIMINATION. A SPECIAL ITEM MARKING 30 YEARS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS IS SCHEDULED FOR PLENARY DISCUSSION. THIS ITEM ON THE 30TH ANNIVERSARY, AS WELL AS THE ITEMS (A) ON TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, AND (B) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UN SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS STAND OUT AS BEING OF SPECIAL INTEREST TO THE UNITED STATES. ANOTHER LIMITED OFFICIAL USE
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REPEATED ITEM WITH IMPORTANT HUMAN RIGHTS CONTENT WILL BE THE REPORT OF THE ECONOMIC AND SOCIAL COUNCIL. UNDER THIS ITEM THE QUESTION OF CHILE WILL BE CONSIDERED, AS WELL AS ALMOST ANY OTHER HUMAN RIGHTS ISSUE WHICH MEMBERS OF THE GENERAL ASSEMBLY MAY CHOOSE TO RAISE.

FACTORS LIMITING U.S. POSITIONS

WITH RESPECT TO A NUMBER OF THE ITEMS, THE ABILITY OF THE UNITED STATES TO TAKE A POSITIVE POSITION IS CIRCUMSCRIBED IN ADVANCE:

A. THE TWO RELATED ITEMS ON IMPLEMENTING THE PROGRAM FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE REPORT ON THE WORLD CONFERENCE--THE UNITED STATES IS A NON-PARTICIPANT IN THE DECADE AND THE WORLD CONFERENCE.

B. THE ITEM DEALING WITH ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF ASSISTANCE GIVEN TO SOUTHERN AFRICA WILL FEATURE A FINAL REPORT BY A SPECIAL RAPPORTEUR--THE EARLIER DRAFTS OF THIS REPORT HAVE BEEN STRONGLY CRITICAL OF THE WESTERN GROUP OF NATIONS, WHICH IN TURN HAVE OPPOSED THE SPECIAL RAPPORTEUR'S FINDINGS AND CONCLUSIONS.

C. THE ITEM DEALING WITH THE REPORT OF THE COMMITTEE ON

THE ELIMINATION OF RACIAL DISCRIMINATION AND THE STATUS OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION--THE UNITED STATES IS NOT A PARTY TO THIS CONVENTION AND IS THEREFORE INELIGIBLE TO PARTICIPATE IN THE WORK OF THE COMMITTEE.

D. THE STATUS OF THE CONVENTION ON THE CRIME OF APARTHEID--THE UNITED STATES IS NOT A PARTY TO THIS
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CONVENTION AND WAS ONE OF THE TWO GOVERNMENTS TO VOTE AGAINST IT.

E. THE ITEM ON SELF-DETERMINATION--RESOLUTIONS UNDER THIS ITEM REGULARLY ENDORSE THE RIGHT OF THE PALESTINIAN PEOPLE TO SELF-DETERMINATION AND CONDEMN THE POLICIES OF NATO MEMBERS, THUS ASSURING A U.S. NEGATIVE VOTE.

F. THE ITEM RELATING TO THE REPORT OF THE HUMAN RIGHTS COMMITTEE UNDER THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS--THE UNITED STATES IS NOT A PARTY TO THESE COVENANTS AND IS THEREFORE PRECLUDED FROM PARTICIPATING IN THE WORK OF THE HUMAN RIGHTS COMMITTEE.

G. THE ITEM ON ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS WILL FOCUS UPON A PROGRESS REPORT FROM THE HUMAN RIGHTS COMMISSION--SINCE THE SUBSTANCE OF THIS ITEM, INCLUDING THE HIGH COMMISSIONER FOR HUMAN RIGHTS PROPOSAL, IS STILL BEING STUDIED BY THE HRC, NO USEFUL INITIATIVE BY THE UNITED STATES WITH RESPECT TO ANY SPECIFIC RELATED PROPOSALS IS LIKELY TO BE POSSIBLE.

H. THE ITEM ON THE ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE--THE DRAFTING OF A DECLARATION IS STILL PROCEEDING AT A SNAIL'S PACE IN THE HUMAN RIGHTS COMMISSION; NO REALISTIC ALTERNATIVE DRAFTING BODY IS AVAILABLE.

I. THE ITEM ON FREEDOM OF INFORMATION--AN IMPASSE IN THE DRAFTING OF EITHER A DECLARATION OR A CONVENTION WAS REACHED MANY YEARS AGO, WITH MAJORITY SENTIMENT CLEARLY IN FAVOR OF LETTING THIS MATTER CONTINUE TO LIE
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UNDISTURBED.

J. THE ITEM RELATING TO ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION OF THE OCCUPIED TERRITORIES (TO BE CONSIDERED IN THE SPECIAL POLITICAL COMMITTEE)
--THE UNITED STATES REJECTS A PRIORI THE FINDINGS OF HUMAN RIGHTS VIOLATIONS MADE REPEATEDLY BY THE UNGA AND THE HUMAN RIGHTS COMMISSION BECAUSE OF THE UNACCEPTABLE NATURE OF THE FACT-FINDING MECHANISM.

U.S. GOALS

THIS YEAR'S UNGA AGENDA OF HUMAN RIGHTS ITEMS OFFERS LESS SCOPE CERTAINLY THAN THAT OF THE LAST SESSION FOR U.S. INITIATIVES AND POSITIVE INPUT. IN TOO MANY INSTANCES, WE WILL NOT BE ABLE TO AVOID A NEGATIVE OR MUTED STANCE. BECAUSE OF OUR STRONG SUPPORT FOR THE HUMAN RIGHTS PROVISIONS OF THE UNITED NATIONS CHARTER AND OUR INTEREST IN MAKING THE UNITED NATIONS A MORE EFFECTIVE INSTRUMENT FOR THE PROMOTION OF HUMAN RIGHTS, WE MUST SEEK TO HIGHLIGHT THOSE ITEMS ON THE AGENDA WHICH OFFER OPPORTUNITIES FOR POSITIVE PARTICIPATION BY THE UNITED STATES. THE ADMINISTRATION'S COMMITMENT TO HUMAN RIGHTS REQUIRES THAT THE UNITED STATES DELEGATION TO THE 33RD GENERAL ASSEMBLY CONTINUE TO WORK FOR THE ADVANCEMENT OF HUMAN RIGHTS, PURSUING GOALS IN LINE WITH OUR OWN NATIONAL CONCEPT OF HUMAN RIGHTS AND, WHEREVER POSSIBLE, ENCOURAGING AND JOINING WITH GOVERNMENTS OF ALL REGIONS OF THE WORLD IN TAKING ACTIONS CONSISTENT WITH OUR GOALS.

THE LIMITATIONS INHERENT IN THE PROVISIONAL AGENDA FOR THE 33RD UNGA SUGGEST THE CONCLUSION THAT IT WOULD BE IN THE UNITED STATES INTEREST TO PROPOSE ADDITIONAL MATTERS, EITHER THROUGH A NEW AGENDA ITEM OR UNDER EXISTING AGENDA ITEMS, FOR CONSIDERATION. IN DETERMINING THE SUBSTANCE OF SUCH INITIATIVES, WE SHOULD USE LIMITED OFFICIAL USE
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AS A PRINCIPAL GUIDELINE THE PROGRAM FOR ACTION SKETCHED OUT BY THE PRESIDENT IN HIS ADDRESS TO THE UNITED NATIONS ON MARCH 17, 1977. IN THIS ADDRESS, PRESIDENT CARTER CALLED FOR A STRENGTHENING OF THE INTERNATIONAL MACHINERY FOR PROTECTING HUMAN RIGHTS AND, IN PARTICULAR, HE SUGGESTED (A) THAT THE HUMAN RIGHTS COMMISSION BE PREPARED TO MEET MORE OFTEN WITH ALL NATIONS BEING PREPARED TO OFFER THEIR FULLEST COOPERATION; (B) THE MOVE BACK TO CENTRAL HEADQUARTERS OF THE UNITED NATIONS HUMAN RIGHTS DIVISION, AND (C) RENEWED ATTENTION AND SUPPORT FOR THE PROPOSAL FOR A UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS.

SPECIFIC ACTION PROPOSALS

IN LINE WITH OUR OVERALL GOAL OF PROMOTING HUMAN RIGHTS AND TAKING ACCOUNT OF THE COMPLEX OF HUMAN RIGHTS ISSUES WHICH WILL APPEAR IN THE PROVISIONAL AGENDA OF THE 33RD UNGA, THE U.S. DELEGATION SHOULD SEEK TO CARRY OUT THE FOLLOWING ACTIONS:

A. DELIVER A MAJOR STATEMENT DURING PLENARY CONSIDERATION OF THE 30TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS ASSESSING THE RECORD OF THE UNITED NATIONS IN THE HUMAN RIGHTS FIELD AND DESCRIBING OUR HOPES AND CONCERNS FOR THE FUTURE.

B. CONSULT WITH OTHER KEY DELEGATIONS WITH A VIEW TO PROPOSING A NEW ITEM FOR THE PROVISIONAL AGENDA WITH THE TITLE "COORDINATION AND REVIEW OF THE HUMAN RIGHTS PROGRAM AND ACTIVITIES OF THE UNITED NATIONS SYSTEM AND OF OTHER INTERNATIONAL ORGANIZATIONS." WE SHOULD PROCEED WITH THIS NEW ITEM ONLY IF OUR CONSULTATIONS REVEAL AN LIMITED OFFICIAL USE
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ADEQUATE AMOUNT OF SUPPORT.

C. UNDER THE ITEM ON TORTURE, PREPARE A PROPOSAL ALONG THE LINES OF THAT INFORMALLY DISCUSSED WITH DELEGATIONS AT THE LAST GENERAL ASSEMBLY FOR THE ESTABLISHMENT OF AN EXPERT GROUP TO SURVEY AND REPORT UPON THE PROBLEM OF TORTURE AS IT MAY EXIST IN THE WORLD TODAY.

D. IN THE CONTEXT OF THE RESOLUTION WHICH THE UNGA WILL CONSIDER WITH RESPECT TO THE REPORT OF THE HUMAN RIGHTS COMMISSION ON ITS OVERALL ANALYSIS OF ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS, PROPOSE WITH OTHER CO-SPONSORS A PROVISION AUTHORIZING THE HUMAN RIGHTS COMMISSION TO HOLD A RESUMED SESSION IN 1979 TO BE HELD AT UN HEADQUARTERS, IN CASE THE COMMISSION DOES NOT COMPLETE THE OVERALL ANALYSIS AT ITS REGULAR 1979 SESSION. THIS WOULD BE AN INITIAL STEP IN ACHIEVING THE PRESIDENT'S AIM FOR MORE FREQUENT ANNUAL SESSIONS OF THE COMMISSION. IN ANY STATEMENT UNDER THIS ITEM, THE U.S. DELEGATION SHOULD EXPRESS OUR CONTINUING INTEREST IN FURTHER CONSIDERATION OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS PROPOSAL.

E. CONSULT WITH OTHER DELEGATIONS IN ADVANCE OF THE 33RD UNGA SESSION WITH A VIEW TO IDENTIFYING POSSIBLE ACTIONS WHICH MIGHT BE TAKEN AT THE 33RD UNGA TO STRENGTHEN AND EXPAND THE STAFF OF THE HUMAN RIGHTS DIVISION, INCLUDING THE NEW YORK LIAISON OFFICE. THIS WILL REQUIRE ADEQUATE BUDGETARY RESOURCES WHICH MUST

BE SHIFTED FROM ANOTHER PART OF THE OVERALL UN PROGRAM.

F. CONSULT WITH OTHER DELEGATIONS WITH A VIEW TO
THE FORMULATION OF A PROPOSAL FOR THE ESTABLISHMENT OF
A PANEL OF EXPERTS TO BE USED BY THE SECRETARY-GENERAL
IN CARRYING OUT A GOOD OFFICES ROLE WITH RESPECT TO
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HUMAN RIGHTS PROBLEMS. THE PANEL WOULD BE MADE UP OF
PERSONS NAMED BY MEMBER GOVERNMENTS.

SPECIFIC CASES OF HUMAN RIGHTS VIOLATIONS

THE PROVISIONAL AGENDA CONTAINS THE USUAL ITEMS DEALING
WITH VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA AND
THE ISRAELI-OCCUPIED TERRITORIES. THE QUESTION OF
HUMAN RIGHTS VIOLATIONS IN CHILE WILL BE CONSIDERED
UNDER THE REPORT OF THE ECONOMIC AND SOCIAL COUNCIL.
OTHER CASES INVOLVING ALLEGATIONS OF SERIOUS HUMAN
RIGHTS VIOLATIONS, DEMOCRATIC KAMPUCHEA, UGANDA, AND
ARGENTINA, ARE NOT SPECIFICALLY IDENTIFIED ON THE AGENDA
BUT COULD BE SUBSUMED UNDER THE REPORT OF ECOSOC.

A. SOUTHERN AFRICA

WHILE OUR DIFFERENCES WITH AFRICAN GOVERNMENTS OVER
THE ADVISABILITY OF ECONOMIC SANCTIONS WILL DOUBTLESS
BE HIGHLIGHTED IN THE DISCUSSION OF THE ITEM DEALING
WITH ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN
RIGHTS OF ASSISTANCE GIVEN TO SOUTHERN AFRICA, OUR
STANCE ON SOUTHERN AFRICAN QUESTIONS NEED NOT BE
NEGATIVE. WE SHOULD BE PREPARED TO PRESENT OUR CASE IN
DEFENSE OF OUR REFUSAL TO SUPPORT THE IMPOSITION OF
ECONOMIC SANCTIONS, OUR COMMITMENT TO PEACEFUL CHANGE
AND OUR ASSISTANCE TO AND ENCOURAGEMENT OF INVESTMENT
EFFORTS IN MAJORITY RULED COUNTRIES IN SOUTHERN AFRICA.
AT THE SAME TIME WE SHOULD BE PREPARED TO REHEARSE AND
EXPECT FULL CREDIT FOR THE POSITIVE ACCOMPLISHMENTS
WHICH HAVE OCCURRED IN SOUTHERN AFRICA, IN NAMIBIA,
CHIEFLY THROUGH THE EFFORTS OF U.S. AND OTHER WESTERN
GOVERNMENTS.

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B. ISRAELI-OCCUPIED TERRITORIES

WE MUST STRESS THE NEED FOR AN OVERALL SETTLEMENT,
WHICH IS THE ONLY WAY FINALLY TO SOLVE THIS PROBLEM. IN
THE MEANTIME, WE SHOULD HIGHLIGHT OUR SUPPORT FOR THE

APPLICABILITY OF THE FOURTH GENEVA CONVENTION TO THE OCCUPIED TERRITORIES, AND THE ENCOURAGING PROGRESS BEING MADE BY THE ICRC IN DEALING WITH THE TREATMENT OF PRISONERS PROBLEM.

C. CHILE

DISCUSSION OF THE HUMAN RIGHTS SITUATION IN CHILE WILL CENTER UPON THE REPORT OF THE HUMAN RIGHTS COMMISSION'S AD HOC WORKING GROUP, WHICH HAS FINALLY BEEN ABLE TO VISIT CHILE. AS A CO-SPONSOR OF THE RESOLUTION ON HUMAN RIGHTS IN CHILE AT THE LAST GENERAL ASSEMBLY, THE UNITED STATES SHOULD BE PREPARED TO ENGAGE IN

CONSULTATIONS ON A RESOLUTION AT THE 33RD GENERAL ASSEMBLY WHICH WILL BE RESPONSIVE TO SUCH DEVELOPMENTS AS MAY BE REPORTED BY THE AD HOC WORKING GROUP.

D. DEMOCRATIC KAMPUCHEA

THE FOCUS OF ATTENTION IN THE UNITED NATIONS WITH RESPECT TO THE HUMAN RIGHTS SITUATION IN DEMOCRATIC KAMPUCHEA WILL BE THE 1979 SESSION OF THE COMMISSION ON HUMAN RIGHTS, WHICH RESPONDED TO THE UNITED KINGDOM INITIATIVE AT ITS 1978 SESSION BY DECIDING TO DISCUSS THE QUESTION AT ITS 1979 SESSION. WE UNDERSTAND THAT THE UK GOVERNMENT DESIRES THAT NOTHING BE DONE AT THE UNGA TO SHIFT THE FOCUS FROM THE COMMISSION ON HUMAN RIGHTS. THE UNITED STATES DELEGATION SHOULD BE PREPARED TO MAKE APPROPRIATE REFERENCES TO OUR CONCERN OVER THE SITUATION

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IN DEMOCRATIC KAMPUCHEA, BOTH IN THE SPEECH TO BE DELIVERED DURING THE GENERAL DEBATE AS WELL AS IN THE STATEMENT WE MAY MAKE ON THE HUMAN RIGHTS RECORD PRESENTED BY THE REPORT OF ECOSOC. THE U.S. DELEGATION SHOULD ALSO CONSULT FURTHER WITH THE UK AND OTHER WEO MEMBERS OF THE HUMAN RIGHTS COMMISSION, BOTH TO ENCOURAGE THEM TO MAINTAIN THEIR ACTIVE INTEREST IN THIS MATTER AND TO EXPLORE THE POSSIBILITY OF PROPOSING TO THE UNGA A PROCEDURAL RESOLUTION EXPRESSING SUPPORT FOR THE ACTION TAKEN BY THE HUMAN RIGHTS COMMISSION IN DECIDING TO LOOK INTO THE SITUATION IN DEMOCRATIC KAMPUCHEA. THE OUTCOME OF THE DISCUSSION OF THE QUESTION BY THE SUBCOMMISSION ON DISCRIMINATION AND MINORITIES AT ITS 1978 SUMMER SESSION IN GENEVA WILL BE RELEVANT TO THE CONTENT OF ANY SUCH RESOLUTION.

E. UGANDA

IN ANY STATEMENT TO BE MADE BY THE UNITED STATES DELEGA-

TION ON THE HUMAN RIGHTS RECORD UNDER THE REPORT OF ECOSOC, REFERENCE SHOULD BE MADE TO OUR CONCERN OVER THE HUMAN RIGHTS SITUATION IN UGANDA, AS WELL AS TO OUR STRONG SUPPORT FOR MEASURES PRESENTLY UNDER WAY IN THE HUMAN RIGHTS COMMISSION TO DEAL WITH THE SITUATION IN THAT COUNTRY.

F. ARGENTINA

AT THE LAST SESSION OF THE COMMISSION ON HUMAN RIGHTS, THE U.S. REPRESENTATIVE, IN A GENERAL STATEMENT ON HUMAN RIGHTS THROUGHOUT THE WORLD, INCLUDED A REFERENCE TO OUR CONCERN OVER THE HUMAN RIGHTS SITUATION IN ARGENTINA. IT IS PROBABLE THAT A VISIT OF THE

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INTER-AMERICAN HUMAN RIGHTS COMMISSION TO ARGENTINA WILL BE ARRANGED AND/OR TAKE PLACE DURING THE PERIOD WHEN THE UNGA IS IN SESSION. THE U.S. REPRESENTATIVE SHOULD BE PREPARED TO MAKE APPROPRIATE REFERENCE TO THE ARGENTINE HUMAN RIGHTS SITUATION AND TO ANY DEVELOPMENTS IN THE OAS IN HIS STATEMENT REVIEWING THE HUMAN RIGHTS RECORD UNDER THE REPORT OF ECOSOC. SHOULD IT HAPPEN THAT NO MOVEMENT WILL HAVE OCCURRED WITH RESPECT TO A VISIT OF THE IAHRC TO ARGENTINA DURING THE PERIOD THE UNGA IS IN SESSION, THE POSSIBILITY OF PROPOSING SOME FORM OF ACTION BY THE UNGA ON THE ARGENTINE QUESTION SHOULD BE EXPLORED AT THAT TIME. CHRISTOPHER

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